

Boehringer Ingelheim Pharmaceuticals, Inc. has agreed to pay \$95 million to settle a False Claims Act case in which it was alleged that the drug company improperly marketed drugs and caused false claims to be submitted to government healthcare programs.

The drugs at issue are Aggrenox, a medication used to prevent strokes, Atrovent and Combivent, chronic obstructive pulmonary disease (COPD) drugs, and the hypertension drug Micardis. The U.S. Department of Justice announced the settlement on October 25, 2012. According to the government's allegations, Boehringer Ingelheim unlawfully promoted each of the drugs for uses that were not medically accepted indications and which were not covered by federal healthcare programs. The settlement also resolves claims that the drug company knowingly made unsubstantiated claims about drug efficacy and paid kickbacks to healthcare professionals to induce them to prescribe the drugs.

The False Claims Act lawsuit was filed in the U.S. District Court for the District of Maryland by a former sales representative of Boehringer Ingelheim. The whistleblower will receive some \$17 million as his "relator's share" in the whistleblower suit. The False Claims Act permits a whistleblower to receive a share of the proceeds recovered by the government so as to encourage other insiders to step forward and report instances of fraud committed against the government.

From the \$95 million settlement, the federal government will obtain some \$78 million and state Medicaid programs will receive \$16.5 million. The drug company also agreed to enter into an expansive Corporate Integrity Agreement that provides for procedures and reviews to be put in place so as to prevent and promptly detect any similar wrongdoing in the future.

The resolution of the case is part of the government's continuing emphasis on combating healthcare fraud and another victory for the Healthcare Fraud Prevention and Enforcement Action Team (HEAT) initiative, announced by Attorney General Eric Holder and Secretary of HHS Kathleen Sebelius in May 2009. The partnership between the two departments has focused efforts on reducing and preventing Medicare and Medicaid financial fraud through enhanced cooperation. Since January 2009, the U.S. Department of Justice has recovered over \$10 billion in cases involving fraud against federal healthcare programs. The Justice Department's total recoveries in False Claims Act

cases since January 2009 are over \$13.8 billion.

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